

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7221

BILL NUMBER: SB 465

NOTE PREPARED: Jan 5, 2011

BILL AMENDED:

SUBJECT: Department of Child Services.

FIRST AUTHOR: Sen. Lawson C

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill makes changes to the laws concerning:

- (1) criminal history background check requirements and fees concerning the Department of Child Services (DCS);
- (2) guardianship of a minor;
- (3) regulation of child caring institutions, foster family homes, including therapeutic and special needs foster family homes, group homes, and child placing agencies;
- (4) adoption;
- (5) incentive payments to counties for enforcing and collecting child support;
- (6) juvenile court jurisdiction;
- (7) child abuse and neglect reporting and investigation;
- (8) disclosure of certain reports regarding the fatality or near fatality of a child;
- (9) local and statewide child fatality review teams;
- (10) the child protection index;
- (11) placement of a child in need of services;
- (12) notification requirements regarding proceedings on motions for child testimony by closed circuit television; and
- (13) placement of a child that is a delinquent child.

The bill repeals a provision requiring the DCS to collect and document information surrounding deaths of children reviewed by the statewide child fatality review committee.

Effective Date: July 1, 2011.

Summary of NET State Impact: This bill is expected to decrease revenue to the Indiana State Police by \$179,000 per year (which would have been deposited into the state General Fund), but would be offset by a corresponding decrease in Department of Child Services expenditures (which would come from state General Fund appropriations).

Explanation of State Expenditures: *Criminal History Background Checks:* The bill prohibits the Indiana State Police (ISP) from charging the DCS state fees associated with a national criminal history background check if the request is made as part of the background investigation for out-of-home placement provider applicants. DCS currently pays \$39 per criminal history background check performed by ISP. This fee is made up of a vendor fee, a portion forwarded to the federal government, and a portion that is deposited into the state General Fund (\$15). A national criminal history background check refers to the criminal history record system maintained by the Federal Bureau of Investigation (FBI) based on fingerprint identification or any other method of positive identification.

A fee would still be required to process a national criminal history background check by the vendor and the FBI. It is assumed that in order to complete the criminal history background checks, DCS will continue to bear the federal and vendor costs of completing the background checks (\$24 per request). This bill will exempt DCS from the state fees (\$15) and will decrease DCS expenditures by approximately \$179,000 per year. DCS is funded through General Fund appropriations.

DCS currently does not pay the fees to process national criminal history background checks for pre-adoptive parents. DCS reports that during FY 2009, approximately 11,900 national criminal history background checks were requested. Of these requests, the number of background checks that were requested for only out-of-home placements is unknown.

The bill increases the number of entities that DCS would be required to report specified information regarding the outcome of a report of suspected child abuse that was made by the entity. This will increase the workload of DCS to the extent that the reports were not previously provided to child caring institutions, group homes, private secure facilities, and child placing agencies that made a report of suspected child abuse. DCS reports that the required reports are an administrative function that would require no additional resources.

Family and Social Services Administration (FSSA): Under the bill, records held by agencies in FSSA would no longer be accessible in determining if a child's death or near death were the result of abuse, neglect, or abandonment. This will decrease the workload of FSSA to the extent FSSA previously provided these records; however, decreases are expected to be minimal.

Denial and Revocation of Licensure: The bill provides that the DCS can revoke or deny applications for licensure for child care institutions, foster homes, group homes, and child placing agencies who have (1) employees and volunteers who have previously operated a child care home or facility without a license and (2) where the applicant or license holder has a juvenile adjudication of an act (see *Disqualifying Criminal Convictions*, below), that if committed by an adult would be a felony.

Therapeutic Foster Family Home: The bill changes requirements for therapeutic foster family home licensure. The bill adds that in order to receive licensure, a foster parent must have at least six months of experience providing care to foster children consisting of one or more placements or if the foster parent has established a meaningful relationship with the foster child or has at least one year of experience working in

the child welfare field. This may decrease the number of therapeutic foster family home providers in the state to the extent the licensure qualifications are more strenuous than current qualifications.

Maximum Number of Foster Children: For therapeutic foster family homes the bill changes the maximum number of foster children that can be provided for (at the same time) from more than 2 foster children to 4 total children. The bill also changes the maximum number of foster children in all other foster homes from 8 to 5 foster children. All foster homes that are not compliant with this new requirement on July 1, 2011, will have until July 1, 2012, to become compliant. This may increase the need for more therapeutic and special needs foster homes in the state by July 1, 2012.

Disqualifying Criminal Convictions: The bill changes the convictions that are considered disqualifying for foster care licensure. Currently, all felony convictions for battery, criminal confinement, carjacking, arson, offenses involving a weapon, offenses relating to controlled substances are considered disqualifying for foster care licensure. The bill will provide that only individuals who have been (1) convicted of these felonies within the past five years or (2) adjudicated by a juvenile court for an action that if committed by an adult would be a felony, would be eligible to receive foster care licensure.

This bill may change the number of individuals who are licensed to provide foster care in the state. Actual changes will depend on how many individuals currently maintain and apply for licensure who have been (1) adjudicated by a juvenile court for an action that would be a felony if committed by an adult and (2) convicted of felony battery, criminal confinement, carjacking, arson, offenses involving a weapon, and offenses relating to controlled substances more than five years ago.

Explanation of State Revenues: *Criminal History Background Checks:* ISP currently charges DCS \$39 for a national criminal history background check, of which \$15 is deposited in the state General Fund. DCS requested a total of 11,900 national criminal history background checks in FY 2009 that, under the bill, an unidentifiable portion would be fee-exempt. Assuming this bill is to have no effect on the number of national criminal history background checks requested by DCS, revenue to the General Fund is estimated to decrease by a maximum of approximately \$179,000 per year.

Court Fee Revenue: The bill makes changes to family court provisions contained in statute. To the extent this bill changes the number of court cases heard in family court, state revenue from civil fees may change. Any change in the number of family court cases is indeterminable.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: The following may increase court workload:

- (1) Requiring courts to notify DCS if a child in need of services (CHINS) case is filed or a program of informal adjustment is pending that involves a minor,
- (2) If there are more court hearings for terminations and modifications of guardianship cases as a result of changes in guardianship conditions,

- (3) Requiring courts to notify DCS of actions concerning guardianships, and
- (4) DCS ability to petition the court if parents, guardians, or custodians refuse to allow the Department to interview a child.

The following may decrease court workload:

- (1) Removing provisions that require the court clerk to notify DCS if an adoption petition is found to be in proper form,
- (2) Clarifying court jurisdiction for modifying (a) the establishment of paternity, (b) child custody, (c) child visitation, and (d) guardianship if there are fewer court filings in courts that do not have appropriate jurisdiction,
- (3) Removing language that requires the probate court to send notifications to prosecuting attorneys under guardianship proceedings, and
- (4) Removing language that requires a local juvenile court to determine if certain allegations, if proven, may have caused the death or near death of a child as the result of abuse, neglect, or abandonment.

The following provisions may also decrease the workload of:

- (1) The local community child protection team established in each county by removing language that requires the team to provide diagnostic services and prognostic services for DCS or the juvenile court, and
- (2) The prosecuting attorney by removing language that would allow the prosecuting attorney to file certain information alleging a child's death or near fatality to be the result of abuse, abandonment, or neglect.

Explanation of Local Revenues: *IV-D Incentive Fund:* The bill requires counties to establish a IV-D incentive fund to receive federal IV-D incentive funds from DCS. Currently, IV-D incentive funds are deposited into a receiving county's general fund. The change is expected to have no net fiscal impact.

Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: ISP, DCS, FSSA.

Local Agencies Affected: Local courts; Local community child protection teams; Prosecuting attorney.

Information Sources: Brady Brookes, DCS; Gina Ashley, DCS.

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